

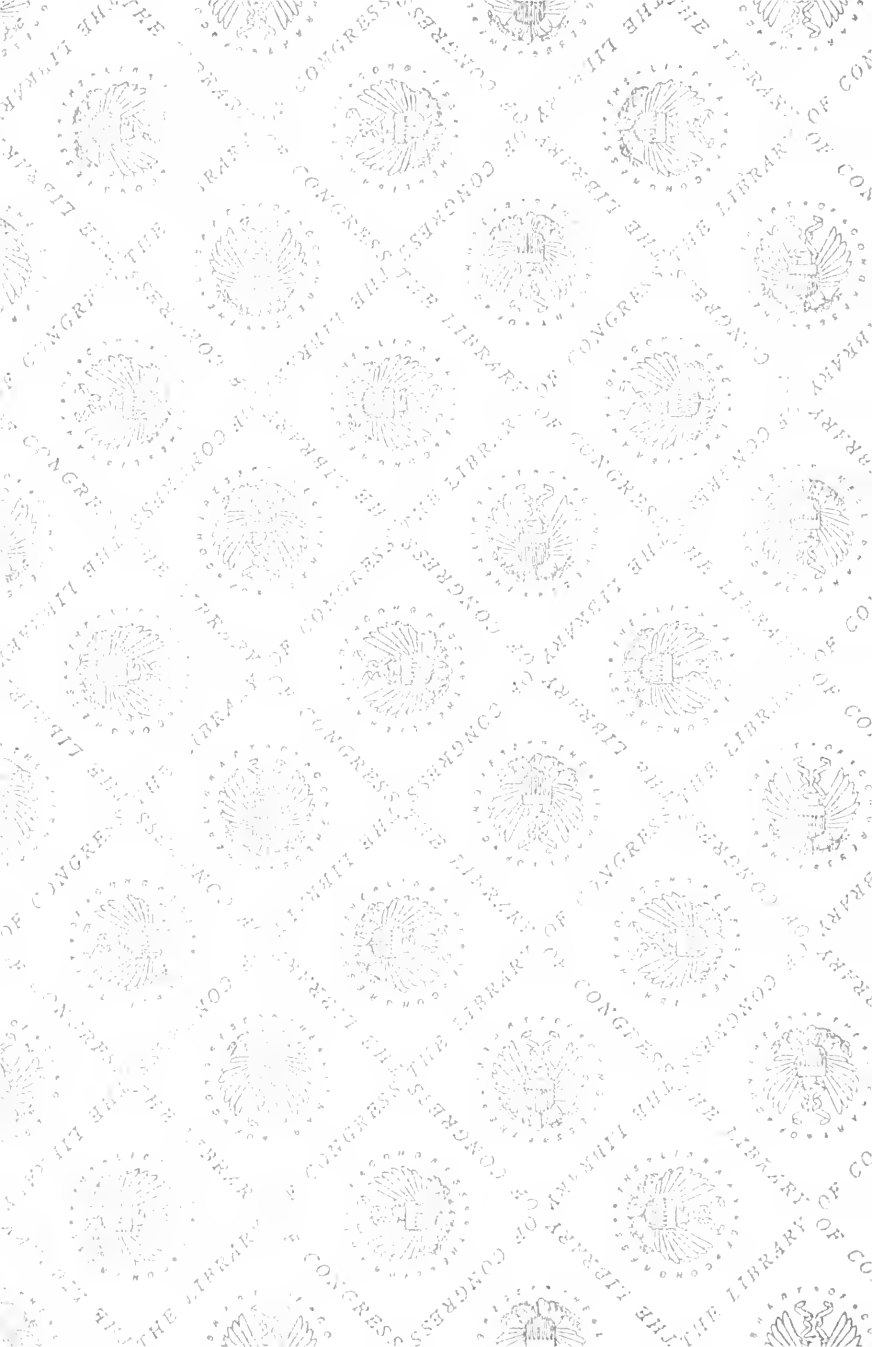
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THE STRUGGLE FOR A
STRONGER FEDERAL
UNION, 1783-1828

SYLLABUS OF A
COURSE OF SIX
LECTURE-STUDIES

BY GEORGE ELLIOTT HOWARD, PH.D.,
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EXERCISES

Topics for exercises are given at the end of the outline of each lecture. Answers in writing, to not more than two questions each week, are invited from all persons attending the lecture. These should be written on one side of the paper only, a broad margin being reserved on the left. The name of the center, with some signature of the writer, should stand at the top of the first page. The exercises should be sent to GEO. E. HOWARD, PH.D., The University of Chicago, Chicago, so as to arrive at least two days before the following lecture. They will be returned at the REVIEW, the following week, with such marginal and oral comments as they seem to require. If application is made to the lecturer, there will be an EXAMINATION at the end of the course for students who are qualified and desire to take it.

Any of the books referred to in these lectures may be obtained at special rates from THE UNIVERSITY OF CHICAGO PRESS, Chicago, Ill. Prices will be quoted on application.

Readings in connection with each lecture are designated in the syllabus. The syllabus is provided with a perforated leaf which each student desiring University credit or recognition in any form should fill out immediately after the opening of the course, and mail to the SECRETARY OF THE LECTURE-STUDY DEPARTMENT, UNIVERSITY EXTENSION DIVISION, UNIVERSITY OF CHICAGO.

The conditions on which University credit can be secured are given on the second page of the leaf.

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ASSIGNED READINGS.

LECTURE I.

FISKE, JOHN: *Critical Period* (Boston, 1888), pp. 1-220.

HART, A. B.: *Formation of the Union* (4th ed., New York and London, 1894), pp. 102-19.

LECTURE II.

FISKE, JOHN: *Critical Period*, pp. 221-350.

HART, A. B.: *Formation of the Union*, pp. 120-35.

LECTURE III.

HART, A. B.: *Formation of the Union*, pp. 154-98.

MORSE, J. T.: *Jefferson* (Boston, 1883, 1885).

LECTURE IV.

MAGRUDER, A. B.: *John Marshall* (Boston, 1885).

HITCHCOCK, HENRY: "Constitutional Development in the United States as Influenced by Chief Justice Marshall," in *Constitutional History of the United States as Seen in the Development of American Law* (New York and London, 1889), pp. 53-120.

LECTURE V.

HART, A. B.: *Foundations of American Foreign Policy* (New York and London, 1901), pp. 211-40.

GILMAN, D. C.: *Monroe* (Boston, 1883), pp. 156-74.

LECTURE VI.

HART, A. B.: *Formation of the Union*, pp. 245-62.

MORSE, J. T.: *John Quincy Adams* (Boston, 1882).

LECTURE I.

SOCIAL ANARCHY FORCES OUT A UNION SENTIMENT (1783-87).

I. Character of the "Critical Period."

1. Washington's "legacy," June 8, 1783.
2. Lack of a true "national sentiment."
3. Weakness of the Confederation: articles ratified March 1, 1781 (Fiske, 99; Schouler, I, 16).
 - a) The requirement of a vote of nine states for all important measures; and unanimous consent of all states for an amendment.
 - b) State control of commerce; helplessness of United States in dealing with foreign powers.
 - c) Lack of coercive power; no action of the national government on the individual; Congress might demand troops and money, but could not enforce the requisition.
4. Early evidences of the weakness of the Confederation (Fiske, chap. iii).
 - a) Madison's proposed amendment giving the United States power to use military force to compel a "delinquent state to fulfil its federal engagements;" a constitutional convention proposed by Pelatiah Webster, May, 1781 (Fiske, 99 ff.).
 - b) Military weakness and the cause.
 - c) Financial weakness; interest on foreign debt; dread of the army; the 5 per cent. duty; Colonel Nicola wishes Washington made king; the "Newburg address," March 11, 1783; expulsion of Congress from Philadelphia, June 21, 1783.
 - d) The Order of the Cincinnati; cause of the violent opposition to it?
 - e) Failure to carry out the treaty of 1783; persecution of the Tories; the New York Trespass Act, 1784; Hamilton and the case of Rutgers *vs.* Waddington; the

Phocion (Hamilton) and Mentor (Ledyard) letters; England retains the western posts.

II. Commercial Relations Reveal Impending Anarchy.

1. The early embargoes, 1775-81 (Sumner, *Financier*, I, 132-40); mischievous and selfish prohibitions; ruinous results of the system.
2. Paper money, and stay and tender acts.
3. State navigation acts, and discriminative tariff and tonnage acts directed against Great Britain, 1785 (Fiske, 142, 143).
4. State acts discriminating against sister-states lead to commercial war (Fiske, 144-47; McMaster, I, 404-6; Elliot, *Debates*, V, 119-30; Bancroft, *Constitution*, I, 175).
 - a) Connecticut admits British goods free and taxes those of Massachusetts.
 - b) Pennsylvania discriminates against Delaware and New Jersey.
 - c) New York discriminates against Connecticut and New Jersey; they seek retaliation; character of Clinton (Fiske, 145-47).

III. Territorial and Boundary Disputes Reveal Impending Anarchy.

1. The Wyoming trouble (Fiske, 147-51; McMaster, I, 210-16).
 - a) Decision of federal court in favor of Pennsylvania, 1782.
 - b) The disasters of 1784; conduct of the Pennsylvania legislature.
 - c) The inhabitants expelled by Patterson; civil war; alleged treachery of Armstrong; decision of the censors; reparation ordered.
2. The Green Mountain trouble: the "New Hampshire Grants" declare themselves a state (Vermont) under Chittenden as governor, March, 1778; attempt to form a state of "New Connecticut," 1779; Massachusetts asserts jurisdiction; Vermont encroaches on New York and New Hampshire; civil war threatened; failure of Congress to settle dispute (Hildreth, III, 407-10; Fiske, 151-53; McMaster, I, 347-55).
3. Attempts to form new states reveal the weakness of the Confederation.

- a) For cases of Vermont and "New Connecticut" see 2, above.
- b) Proposed state in Maine (Hildreth, III, 442).
- c) The state of Franklin ("Frankland") and John Sevier, 1784-87 (McMaster, I, 155-63, 262-65; Fiske, 200, 201; Hildreth, III, 468-70).
- d) Proposed state of Kentucky, 1784 (McMaster, I, 163, 164; Hildreth, III, 457, 470, 529, 543).

IV. The Mississippi Question, 1783-87, and Threatened Rupture of the Union.

- 1. October 6, 1786, treaty of Jay and Gardoqui proposes to close the river for twenty-five years.
- 2. New England and Kentucky threaten secession.
- 3. The treaty postponed.

V. The Paper-Money Craze and Shays' Rebellion.

VI. Failure of All Plans to Strengthen the Confederacy.

- 1. By grant of specific powers.
 - a) Five per cent. scheme, 1781-83.
 - b) Revenue scheme, 1783-86.
 - c) Commerce scheme, 1784-87.
 - d) Minor schemes.
 - (1) Monroe's report, July 13-14, 1785 (Bancroft, *History*, VI, 142-45; *idem*, *Constitution*, I, 192-96).
 - (2) Seven amendments to the Articles of Confederation proposed August, 1786 (*ibid.*, 260-62).
- 2. By grant of coercive powers.
 - a) Washington urges, 1781-86 (Fiske, *ibid.*, 99, 100; *Madison Papers*, I, 81-84).
 - b) New York Senate recommends, September, 1780 (Bancroft, *Constitution*, I, 12, 13).
 - c) Madison proposes in report to Congress, March 12, 1781 (*Madison Papers*, I, 86-90; Bancroft, *Constitution*, I, 23).
 - d) The Virginia resolution, May, 1784: distress on individuals (Bancroft, *Constitution*, I, 163).

3. By change in the form of government.
 - a) To a monarchy or dictatorship, 1781-83 (Fiske, 107, 108; Gay, *Madison*, 77-79).
 - b) To a centralized government, the states to be suppressed or reduced to mere provinces (Gay, 78).
 - c) To a closer federal union, 1780-85.
 - (1) Price convention of northeastern states, at Boston, August, 1780, declares for one supreme head and a more efficient legislature; recommends the Hartford Convention (Sumner, *Financier*, I, 92).
 - (2) November 11, 1780, Hartford Price Convention of northeastern states and New York urges need of stronger federal government (Bancroft, *Constitution*, I, 14, 15).
 - (3) Amendments to Articles of Confederation proposed in report of a Congressional Committee (Randolph, Ellsworth, Varnum), August 22, 1781 (Bancroft, *Constitution*, I, 25-27).

VII. Growth of a Popular Sentiment in Favor of a Stronger Government.

1. Influence of Washington, Hamilton, and Madison; of Pelatiah Webster and Noah Webster (1784).
2. Early proposal for a constitutional convention.
 - a) By Hamilton in his letter to Duane, September 30, 1780; and in Congress, April 1, 1783 (Curtis, I, 236-39, notes).
 - b) By Thomas Paine in "Public Good," December, 1780 (Bancroft, *Constitution*, I, 13).
 - c) Greene demands, 1780 (*ibid.*, 14).
 - d) William Barton urges, May, 1781.
3. Proposed by legislatures of New York, 1782; and Massachusetts, 1785.
4. The Virginia-Maryland Commercial Commission, 1784-85.
5. The Annapolis convention, September 14, 1786.

STUDIES.

1. Importance of Pelatiah Webster's political and economic views.
2. John Sevier and the origin of Kentucky.

3. Critical account of the Wyoming incident.
4. Franklin's plan for a confederation compared with that adopted.
5. Treatment of the Tories after the peace.

REFERENCES.

1. *General references*.—Fiske, *Critical Period*, 1-220; Bancroft, *Constitution*, I; *idem*, *United States*, VI; Hildreth, *United States*, III; McMaster, *People of United States*, I; Pitkin, *United States*, II, chap. xi (Franklin's plan); Morse, *Franklin*, 206; Draper, *Civil War*, I, 258 ff.
2. *Character of the Confederation*.—Fiske, *Critical Period*, chap. iii; Frothingham, *Rise of the Republic*, 481, 517, 569-71, 573-84; Curtis, *Constitutional History*, I, 80, 86 ff., 221 ff.; Preston, *Documents*, 218, 219; Schouler, *United States*, I, 13-34; Hildreth, III, 395 ff., 453, 454; Bancroft, *United States*, V, 199 ff., 439 ff.; VI, chaps. vi, vii, viii; *idem*, *Constitution*, I, chaps. vi, vii; McMaster, I, 356 ff., 391 ff.; von Holst, *Constitutional History*, I, chap. i; Lalor, *Cyclopædia*, III, 475, 476; Elliot, *Debates*, I, 67 ff.; *Federalist*, index at "Confederation;" Story, *Commentaries*, I, secs. 269-71; Woolsey, *Political Science*, II, 245-48; Donaldson, *Public Domain*, 59, 60; Landon, *Constitutional History*, 42-62; Johnston, *United States*, 136; Macy, *Our Government*, 35 ff.; Fiske, *Civil Government*, 18-23; Crane and Moses, *Politics*, 135-41; Morse, *Hamilton*, I, chaps. iv, v; Lodge, *Hamilton*; Gay, *Madison*, 53-63; Hart, *Formation of the Union*, 102-23; Morse, *Franklin*, 216-420; Holmes, *Annals*, II, 353-71; Bryant and Gay, IV, 79-99; Tucker, *United States*, I, 291-347; Weedon, *Economic and Social History*, II, chaps. xxii, xxiii; Sumner, *Financier*, II, chaps. xvi-xviii.
3. *Origin of the Federal Convention*.—Bancroft, *Constitution*, I, 169-74, 176, 177, 249-57, 267-78; *idem*, *United States*, VI, 129, 184, 185, 195-203; Curtis, I, 221-25, 230 ff.; McMaster, I, 277 ff., 389-400; Fiske, *Critical Period*, 212, 222; Schouler, I, 29-35; Frothingham, 585-89; Hildreth, III, 477, 478; Story, *Commentaries*, I, secs. 272-74; Gay, *Madison*, 47-87; Lodge, *Hamilton*, 50-57; Elliot, *Debates*, I; Roberts, *New York*, II, 444-48; Morse, *Hamilton*, I, 158-76; Lodge, *Washington*, II, 1-29; Landon, 56-66; Hart, 115-28; Goldwin Smith, *United States*, 119-29.

LECTURE II.

THE MAKING OF THE CONSTITUTION.

I. Theory of the Constitutional Convention

(Lalor, *Cyclopædia*, I, 626-37; Jameson, *Constitutional Convention*, 1-13, 99 ff.).

1. The Revolutionary Convention.

- a) English example: the convention Parliaments of 1399.
 - b) French examples: the convention of 1793-95, etc.
 - c) American examples: Massachusetts convention, 1689; the state conventions and provincial congresses, 1775-77; the state secession conventions, 1861.
2. The Constitutional Convention.
- a) An American institution, suggested by the revolutionary convention.
 - b) Limitation of its sphere or power.
 - (1) French theory.
 - (2) American theory.
 - c) Its function: to enact organic as opposed to statutory law; to formulate a "written constitution."
 - d) Call, election, and procedure of a convention (Jameson, 99 ff.).

II. Organization, Composition, and General Character of the Convention of 1787.

- 1. The gathering, May 14-25.
- 2. Organization, May 25: Washington, president; William Jackson, secretary; Nicholas Weaver, messenger; rules adopted May 28; proceedings to be secret (Elliot, *Debates*, I, 139-43; Schouler, I, 36).
- 3. Difficulties (Fiske, 222-32; von Holst, I, 49 ff.; Lalor, I, 547; Gay, *Madison*, 89-97; Frothingham, 585, 586; Hildreth, III, 584-87; McMaster, I, 418-23; Schouler, I, 36-38; Hart, 121 ff.
 - a) Popular jealousy of a convention; timidity of members Washington's appeal (Fiske, 231, 232); lack of experience and difference of interests.
 - b) The limitation of the convention's power, as shown by the call of Congress and the credentials of members (Elliot, *Debates*, I, 119, 123-39); did the convention transcend its proper authority in preparing a new constitution? (Bryce, I, 18, note).
 - c) Character and ability of the members; education, number of college men. Leaders: Washington, Franklin, Hamilton, etc.; Madison, the "Father of the Constitu-

tion;" difference in individual views (Fiske, 224-32; Hildreth, III, 484); representative men not members (Fiske, 225).

d) Parties and antagonisms.

(1) Federalists and anti-Federalists (for the "Irreconcilables" and anti-federal leaders see Fiske, 229).

(2) Friends of centralization *vs.* the advocates of state sovereignty.

(3) Large states *vs.* small states.

(4) Commercial or trade states *vs.* agricultural states.

(5) North *vs.* South.

(6) East *vs.* West.

III. The Principal Plans of Government Submitted.

1. The Virginia (Madison's) plan, May 29; centralization; action on individuals (Elliot, I, 143-45, 181-83).

a) Principal features.

(1) Two houses: lower chosen by popular vote; upper, by the lower from nominees of state legislatures.

(2) In each house individual vote and majority decision.

(3) Representation according to property or population.

(4) Executive to be chosen by the national legislature.

(5) National legislature to nullify unconstitutional state laws.

(6) National judiciary.

b) Debate on the Virginia plan (Elliot, I, 150 ff.; Fiske, 242-45).

2. The New Jersey (Patterson's) plan; June 15 (Elliot, I, 175-77).

a) Leading features.

(1) In general, the plan provided for mere amendment of the Articles.

(2) An executive, in form of council, to be chosen by Congress.

(3) Powers of Congress increased, but no action on individual.

b) Debate on scheme; rejected June 19 (Elliot, *Debates*, I, 177 ff.; Fiske, 245-50).

3. Other plans.

- a) Plan of Charles Pinckney, May 29 (Elliott, I, 145-50); not genuine.
- b) Plan of Alexander Hamilton, June 18; centralization (*ibid.*, 179, 180; Schouler, I, 41).

IV. The Three Great Compromises.

- 1. The First, or Connecticut, Compromise (July 7): state representation (Fiske, 250 ff.; Elliott, V, 248-87, 311-19).
 - a) Lower house, composed of representatives chosen by popular vote and distributed according to population (one for 30,000).
 - b) Upper house, composed of two senators from each state, voting as individuals.
- 2. The Second, or Three-fifths, Compromise: representation for slaves, July 12 (Elliott, V, 294-310).
 - a) The struggle leading to the compromise.
 - b) Was the compromise just or expedient? Was it open? (Goodell, *Slavery and Anti-Slavery*, 222-24; Fiske, 261, 262).
- 3. The Third, or New England-South Carolina, Compromise (August 25): slave trade and federal control of commerce (Elliott, I, 256, 374, 375; V, 454-62, 477, 478, 488-92).
 - a) Why the South opposed commercial powers (Fiske, 262).
 - b) Slave trade granted till 1808.
 - c) Opposition of Mason and Virginians.
 - d) Was the compromise necessary?

V. Debates on the Details of the Constitution.

- 1. On the executive; original purpose of the electoral college.
- 2. On the judicial department; is the Supreme Court an original feature?
- 3. On "bills of credit."

VI. Ratification of the Constitution.

VII. Deficiencies of the Constitution.

STUDIES.

1. The ratification of the Constitution in Massachusetts.
2. Intended character of the electoral college. Show from history whether it is a useful part of the Constitution.
3. The slavery compromises: were they necessary?
4. Deficiencies of the Constitution.
5. What changes in the Constitution are now frequently proposed?

REFERENCES

1. *General references.*—*Documentary History of the Constitution*, 1786-1870 (3 vols., Washington, 1894); Elliot, *Debates*; Fiske, *Critical Period*, 222-350; Schouler, I, 36, 37; Bancroft, *Constitution*, II; *idem*, *United States*, VI, 207-270; Frothingham, 589 ff.; McMaster, I, 417-27, 437-53; Bryce, *Commonwealth*, I, 18-25; Jameson, *Constitutional Convention*, chaps. i, iii, iv; Hildreth, III, 482 ff.; von Holst, *Constitutional History*, I, 49 ff.; Lalor, I, 637-40, 548, 549; II, 973-75; Johnston, *Politics*, 10-17; Curtis, I, 315 ff.; Hart, *Formation of the Union*, 121 ff.; von Holst, *Constitutional Law*, 15 ff.; Cooley, *Constitutional Law*, 15; Goldwin Smith, *United States*, 121 ff.; Foster, *On the Constitution*, I, 19 ff., 80 ff.
2. *The compromises.*—Fiske, 242-68; Bancroft, *Constitution*, II, 47, 48, 128-32, 141-44, 151-60; *idem*, *United States*, VI, 239-69, 299-301, 315-23; Curtis, I, 368, 314 ff.; von Holst, I, 289-91, 293-99; Hildreth, III, 494-520; Gay, *Madison*, 98-114; Wilson, *Slave Power*, I, 39-53; Elliot, *Debates*, I, IV; Lalor, I, 547-49; II, 973-75; Foster, I, 41-44.
3. *Electoral college and the executive.*—Elliot, V, 334-50, 358-70; Landon, 70-77; Tiedeman, *Unwritten Constitution*, 40-51; Bryce, *Commonwealth*, I, 37-41; Curtis, I, 425, 455, 563-66; Bancroft, *Constitution*, II, 166-94; *idem*, *United States*, VI, 326 ff.; Fiske, 280 ff.; *Madison Papers*, III, Index at "Executive;" Story, II, secs. 1410-88.
4. *Ratification of the Constitution.*—Elliot, II-IV; *Federalist*; von Holst, I, 52-75; Story, I, secs. 281-92; Lalor, I, 99, 606, 607; II, 165; McMaster, I, 454 ff.; Curtis, I, 623-97; Bryce, I, 23-25; Hildreth, III, 533-39; Schouler, I, 54-70; Fiske, 306 ff.; Frothingham, 579-603; *Republic of Republics*, 73-147, 433-56; Lodge, *Hamilton*, 65-80; Bancroft, *Constitution*, II, 225-367; Gay, *Madison*, 115-27; Morse, *Jefferson*, 92-95; Hosmer, *Samuel Adams*, 392-401; Tyler, *Henry*, 279-301; Landon, 82-96; Bancroft, *United States*, VI, 374-462; Morse, *Hamilton*, I, 238-75; Foster, I; Libby, *Geographical Distribution of the Vote of the Thirteen States on the Federal Constitution, 1787-8*, in "Bulletins of the University of Wisconsin" (Madison, 1894), V; McMaster and Stone, *Pennsylvania in the Federal Constitution* (Philadelphia, 1888); Walker, *Birth of the Federal Constitution, a History of the New Hampshire Convention* (Boston, 1888); Harding, *Contest over the Ratification of the Federal Constitution in Massachusetts* (New York, 1894); Ford, *Essays on the Constitution Published During its Discussion* (Brooklyn, 1888); Ford, *Pamphlets on the Federal Constitution* (Brooklyn, 1888).

LECTURE III.

THE POLITICAL REVOLUTION OF 1800.

I. Rise and Fall of the Federalist Party.

1. Services of the Federalists: work of Hamilton; influence of Washington.
2. Causes of the fall of the Federalists.
 - a) Foreign policy: indiscretions of the "war party" lead to "alien and sedition laws;" and war with France.
 - b) Domestic policy: the direct tax.
 - c) Party dissensions; Adams's cabinet; the "Essex Junto;" characteristics of Adams; his "midnight appointments;" the new circuit courts.
 - d) Aristocratic tendencies: views of Hamilton; of Adams.

II. Character and Policy of Thomas Jefferson

(Hildreth V, 419 ff.; Hart, 176-78; Schouler, II, 200 ff.).

1. His personal appearance (Adams, *United States*, I, 185-87).
2. Sources of his great influence over the masses.
 - a) Sincere confidence in the rising principle of pure democracy, of which he was the best exponent.
 - b) Capacity to organize; to draft public documents; literary skill.
 - c) Social powers; table talk.
3. Faults and limitations.
 - a) Mistaken view of human nature.
 - b) Too much self-confidence.
 - c) A poor speaker; lacked aggressive power; but able to lead others to fight for him.
4. His theories (Morse, *Jefferson*, 90-93, 103, 209-18; Schouler, II, 2-15).
 - a) Champion of religious liberty; the friend of science and the enemy of slavery.
 - b) Political doctrines.
 - (1) Influence of Rousseau and the French Revolution: believer in little government and the rule of the masses rather than the classes.

- (2) A strict constructionist; drafted the Kentucky resolutions.
- (3) Hated a national debt and thought internal improvements unconstitutional.
- (4) Disliked the use of force against insurrections: attitude toward Shays' Rebellion and the Whiskey Insurrection.
- (5) Opposed a standing army and large navy.
- c) In some respects he was far ahead of his age: the leader in many ideas which have prevailed in the thought of the century.

III. Jefferson's Administration.

1. His theory of republican government compared with that of the Federalists.
2. Theory and practice as to the civil service.
3. Repeal of judiciary act, 1802; *Marbury vs. Madison*, 1803; impeachments of Pickering and Chase.
4. Louisiana purchase, 1803.
5. The "restrictive system"; failure of the policy of "non-resistance".
6. Jefferson's services to the nation.

STUDIES.

1. Adams and the Essex Junto.
2. Debates on the Louisiana purchase.
3. Origin and importance of Washington's neutrality proclamation.
4. The Genet incident.
5. The civil service under Washington.
6. Jefferson and Federal patronage.

REFERENCES

Jefferson, *Works* (10 vols., New York, 1892); Johnston, *Orations*, I, 99-108; Williams, *Statesman's Manual*, I, 139 ff.; Hildreth, V, 419 ff.; Schouler, II, 1 ff.; McMaster, II, 538 ff., 583 ff.; Adams, *United States*, I-IV; Morse, *Jefferson*, 90-93, 103, 209 ff., 263-68; W. E. Curtis, *True Thomas Jefferson*; Adams, *Randolph*, 48-61, 71-73, 123-31; Gay, *Madison*, 252-56; Stevens, *Gallatin*, 289 ff.; Hart, *Formation of the Union*, 154-98; Bryant and Gay, *United States*, I, 144-84; von Holst, *Constitutional History*, I, 168-226; Tucker, *United States*, II, 146-348; Bradford, *Constitutional History*, I, 202-329; Adams,

Gallatin (Philadelphia, 1879); Randall, *Life of Jefferson* (3 vols., New York, 1858); Randall, *Domestic Life of Thomas Jefferson* (New York, 1872); Tucker, *Life of Jefferson* (Philadelphia, 1837); Forman, *Thomas Jefferson* (Indianapolis, 1900); J. Q. Adams, *Memoirs*, I, 248-551; W. Sullivan, *Familiar Letters*, 187-289; Goodrich, *Recollections*, I, 106-37, 265-98.

LECTURE IV.

JOHN MARSHALL, THE EXPOUNDER OF THE CONSTITUTION.

I. Characteristics of John Marshall.

II. Characteristics of the Federal Constitution.

1. What is a constitution?
2. Varieties of constitutions (Jameson, *Constitutional Convention*, 67-87).
3. Sources of the Constitution.
4. Relative expansibility of written and unwritten constitutions; chief clauses under which the expansion of the Federal Constitution has taken place; difficulty of amendment.
5. Alleged new feature in the Constitution (Robertson, in *Annals of American Academy*, I, 203 ff.).
 - a) Constitutional functions of the Supreme Court.
 - b) The dual statehood.
 - c) Popular sovereignty.
 - d) The system of "checks and balances."
 - e) Practical result: a new and most significant experiment in self-government.
6. Deficiencies of the Constitution.
7. To what extent did it express the will of the people?

III. John Marshall and the "Settlement" of the Constitution.

1. He reveals the powers of the Supreme Court.
2. Significance of his opportunity: what the Constitution "might have been" through interpretation.
3. Vast numbers of opinions delivered by Marshall, 1801-35.

4. Some leading decisions :
 - a) *Marbury vs. Madison*, 1803 (1 Cranch, 137).
 - b) "Olmstead case": *United States vs. Peters*, 1809 (5 Cranch, 137; Hildreth, III, chap. xxii).
 - c) *Cohens vs. Virginia*, 1821 (6 Wheaton, 264). Cf. *Martin vs. Hunter's Lessee*, 1816 (1 Wheaton, 304, 323, 362).
 - d) *McCulloch vs. Maryland*, 1819 (4 Wheaton, 316, 421).
 - e) *Osborn vs. Bank of United States*, 1824; *Weston vs. Charleston*, 1829 (9 Wheaton, 738; 2 Peters, 449).
 - f) *American Insurance Company vs. Canter*, 1828 (1 Peters, 511, 542).
 - g) *Fletcher vs. Peck*, 1810 (6 Cranch, 87, 135-40; cf. Has-
kins, in *American Historical Association Papers*, V, 395 ff.).
 - h) *Dartmouth College vs. Woodward*, 1819 (4 Wheaton,
518; cf. Van Santvoord, *Lives of Chief Justices*, 394-98).
 - i) *Ogden vs. Saunders*, 1827 (12 Wheaton, 213).
 - j) The Burr trial (4 Cranch, Note B, 473; Adams, *United States*, III, 441-71; Robertson, *Burr Trial* (Philadel-
phia, 1808); Kennedy, *Life of Wirt*, I, 161-206; Van
Santvoord, 364-79).

STUDIES.

1. The Yazoo claim, and the case of *Fletcher vs. Peck*.
2. The Dartmouth College case.
3. Marshall and Jefferson and the Burr trial.
4. Is the system of "checks and balances" breaking down?
5. An estimate of Marshall's influence on the Constitution.

REFERENCES

1. *Characteristics of the Constitution*.—Story, *Commentaries*, I, secs. 339, 340 (definition); Cooley, *Constitutional Limitations*, 4; *idem*, *Constitutional Law*, 21 (definition); Tiedeman, *Unwritten Constitution*, 16 ff., 145, 110-28, 137-44; Jameson, *Constitutional Convention*, 67-87; Stephens, *Sources of the Constitution*; Foster, *On the Constitution*, I, 27-60; Morey, in *Annals of American Academy*, I, 529-57; Robertson, *ibid.*, I, 203 ff.; Bryce, *Commonwealth*, I, chaps. xxiii (Supreme Court), xxviii (nature); Wilson (H. H.), *Unwritten Elements of the Constitution*, 420-24; Wilson (W.), *Congressional Government*, 10-14 (checks and balances), 475-79 (nature of Constitution); Hart, *Formation of the Union*, 133-35; Maine, *Popular Government*, 202 ff.; Cooley, "Supreme

Court," in *Constitutional History of the United States as Seen in the Development of American Law* (New York and London, 1889), 27-52.

2. *John Marshall*.—Hitchcock, "Constitutional Development of the United States as Influenced by Chief Justice Marshall," in *Constitutional History, etc.*, 53-120; Story, *Miscellaneous Writings*, 183-200; Thayer (J. B.), *John Marshall* (Boston, 1901); Dillon (J. F.), *John Marshall* (Chicago, 1903); *Centennial Anniversary* (Philadelphia, 1901), containing, 21-66, J. T. Mitchell's oration; Craighill, in his *Virginia Peerage*, I, 229-84; Flanders, *Lives and Times of the Chief Justices*, 279-550; Lodge, in his *Fighting Frigate, etc.* (New York, 1902); Phelps, in his *Orations and Essays* (New York, 1901); Libby, *John Marshall* (Brunswick, 1901); Draper, *John Marshall and the March of the Constitution* (n. p., 1901); Marshall (John), *Writings on the Federal Constitution* (Boston, 1839; Washington, 1890); Magruder, *John Marshall* (Boston, 1885).

LECTURE V.

JAMES MONROE AND HIS DOCTRINE IN THE LIGHT OF RECENT HISTORY.

- I. **Origin of the Principle** (Gilman, *Monroe*, 156-74; Schouler, III, 277 ff., 289-93, note; Tucker, *Monroe Doctrine*, 1-11; Hart, *American History Leaflets*, No. 4, pp. 1-13).
 1. Evolution of the doctrine of neutrality and non-intervention.
 - a) Washington's influence.
 - b) Influence of Madison and Jefferson.
 - c) Other evidences of the rise of a popular sentiment in favor (see Gilman, *Monroe*, 156 ff.).
 2. J. Q. Adams's share in formulating the doctrine (Tucker, 21-23; especially Ford, in *American Historical Review*, VII, 676-96, and Reddaway, 69 ff.).
- II. **Immediate Causes of the Assertion of the Doctrine** (Schouler, III, 277 ff.; Tucker, 6-11; Hart, 241-43; *North American Review*, XVII, 373-75; Reddaway, 12 ff; Keasbey, 123 ff.; Ford, 676 ff.).
 1. Revolt of the Spanish-American colonies (Dyer, *Modern Europe*, V, 370).
 - a) First revolt, 1808; returned to nominal allegiance, 1814.
 - b) Second revolt, 1816-22 (Hart, 241, 242; Schouler, III, 255); work of Bolivar.

2. The "Holy Alliance" of Prussia, Austria, and Russia, September 26, 1815: a league in favor of "legitimacy," *i. e.*, "despotism."
 3. The congress at Laybach (in Styria), 1820: intervention of Holy Alliance to suppress revolution in Naples.
 4. The congress at Verona, 1822.
 - a) To consider the insurrection against Ferdinand VII. of Spain. The latter is restored by Louis XVIII. of France, with approval of the alliance.
 - b) Question of assisting the revolting Spanish colonies raised: Spain asks intervention.
 5. The (revolted) Spanish-American states recognized by United States, 1822 (Schouler, III, 255).
 6. Russian plans for colonization in the Northwest.
 - a) Russian claims (Schuyler, *Diplomacy*, 294-97).
 - b) The ukase of 1821.
 - c) Secretary Adams' declaration to Baron Tuyl, July 17, 1823 (Hart, *Leaflets*, 11).
 7. Canning and Richard Rush (Schouler, III, 282-86; Ford, 676 ff.).
 - a) Canning proposes that Great Britain and the United States unite in a declaration against European intervention in American colonies.
 - b) Motives of England.
 - c) Was Rush justified in declining?
- III. **Monroe States the Doctrine in His Seventh Annual Message December 2, 1823** (Williams, I, 460-62; Hart, *Leaflets*, 13; Tucker, 15 ff.).
1. American continent not subject to European colonization: meaning (Dana, *Wheaton*, 103; Webster, *Works*, III, 178).
 2. No European interposition in affairs of American states: meaning (Dana, *Wheaton*, 110, 111; Tucker, 122 ff.).
 3. No extension of European system in America.
 4. Second declaration in Monroe's eighth annual message (Hart, *Leaflets*, 14, 15; Tucker, 19; Williams, I, 465 ff.).
- IV. **Immediate Effects of the Declaration** (Gilman, 171-74; Schouler, III, 292, 293; von Holst, I, 421 ff.).
1. On the United States Constitution: an executive declaration

never confirmed as a whole by Congress. Clay's resolution (Benton, *Abridgment*, VII, 650-52; Tucker, 21).

2. On Europe: joint intervention abandoned; and Spain gives up reconquest of her revolted colonies.
3. On Russia: Treaty of 1824 (Schuyler, 297-304).
4. On the American states.
5. On England: she recognizes the American states.

V. **History of the Doctrine** (Tucker, *Monroe Doctrine*, 23 ff.).

1. The Panama congress, 1826 (Tucker, 23-26; von Holst, I, chap. xi; Henderson, 342 ff.).
 - a) Wish of the United States: to form an agreement with American states as to maintenance of doctrine.
 - b) Messages and discussions leading to appointment of United States envoys to the Congress.
 - c) Opposition of the slavery party (see von Holst).
 - d) No action.
2. Proposed intervention in Yucatan, 1848; Polk's doctrine.
 - a) Causes.
 - b) Calhoun's speech on limitation of the doctrine (Calhoun, *Works*, IV., 454; Tucker, 93-112).
3. The Clayton-Bulwer Treaty, April 19, 1850, and the inter-ocean canal (Lalor III, 948; Tucker, 43-76; *Treaties and Conventions*, 440-44).
 - a) The occasion and importance of the treaty.
 - b) Provisions: which clauses led to misunderstandings and negotiations?
 - c) History: negotiations for modification; question of right of United States to avoid treaty.
 - (1) Blaine, 1881.
 - (2) Hay, 1900.
4. Cuba (Tucker, 77-91): why its possession was important to England; to the United States. The Filibusters and the Ostend manifesto (Hart's *Leaflets*, No. 2; Lalor, II, 184; III, 36; Rhodes, II, 11-44; von Holst, index at "Cuba").
5. French intervention in Mexico, 1861-66. Did the United States maintain the doctrine?
6. Other cases of application of the doctrine.

VI. **Expansion of the Doctrine** (Hart, "Monroe Doctrine and the Doctrine of Permanent Interest," *American Historical Review*, VII).

1. The original meaning, 1823.
2. Polk's doctrine, 1845-49: annex to prevent annexation.
3. Seward's view in case of France and Mexico, 1861-67 (Curtis, 101 ff.).
4. Blaine's doctrine, 1881: United States to be sole guardian of the isthmian canal, and the arbiter of disputes between Latin American powers (Foster, 461 ff.).
5. Olney's doctrine, 1895 (Foster, 467 ff.; Henderson, 411 ff.).

VII. **What Should Be the Policy of the United States?**

1. Shall the Monroe doctrine be abandoned?
2. Shall the United States participate in the world's affairs?
3. Moral responsibilities of a great nation.

STUDIES.

1. The Clayton-Bulwer Treaty.
2. The Venezuela incident, 1895.
3. Influence of the United States in the East.
4. The Ostend manifesto.

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Hart, "The Monroe Doctrine and the Doctrine of Permanent Interest," *American Historical Review*, VII, 77-91; or the same in his *Foundations of American Foreign Policy* (New York and London, 1901), 211-40; Ford, "John Quincy Adams and the Monroe Doctrine," *American Historical Review*, VII, 676-96; Keasbey, *The Nicaragua Canal and the Monroe Doctrine* (New York and London, 1896), 123 ff., 556 ff.; Reddaway, *The Monroe Doctrine* (Cambridge, 1898), 12 ff., 69 ff., 91 ff.; Foster, *A Century of American Diplomacy* (Boston, 1900), 438 ff.; Henderson, *American Diplomatic Questions* (New York and London, 1901), 289-448; Travis, *History of the Clayton-Bulwer Treaty* (Ann Arbor, 1900); Tucker, *Monroe Doctrine* (Boston, 1885); Latíné, *Diplomatic Relations of the United States and Spanish America* (Baltimore, 1900); Curtis, *The United States and Foreign Powers* (New York, 1899), 93 ff.; Reinsch, *World Politics* (New York, 1900); Schouler, III, as cited; Hart, *Formation of the Union*, 241-44; Gilman, *Monroe*, 156-74; Wharton, *Digest of International Law*, secs. 57-61, 72; Dana's *Wheaton's International Law*, 97-112; von Holst, I, 409 ff.; Schuyler, *Diplomacy*, as cited; Morse, *J. Q. Adams*, 128-38; Lalor, I, 66-69; II, 898-900; Williams, *Statesman's Manual*, I, 462, 465 ff.; *Treaties and Conventions*; Kasson, in *North American Review*, CXXIII, 241-54, 523-33; *Nation*, XXXIV, 9; Bibliography, J. F. Jameson, in Gilman's *Monroe*, 269-80.

LECTURE VI.

JOHN QUINCY ADAMS, A PURITAN SCHOLAR IN POLITICS.

A. ADAMS AS PRESIDENT.

I. **Characteristics of Adams: His Experience Before He Became President.**II. **The Administration of Adams.**

1. Election of 1824; candidates: Jackson, Clay, Crawford, and Adams.
2. Election in the House, 1825.
 - a) Was the choice of Adams constitutional?
 - b) Question of a "corrupt bargain" between Adams and Clay.

III. **The Election of 1828.**

1. Opposition to Adams.
 - a) Question of abuse of patronage.
 - b) Question of extravagance and fiscal abuse.
2. Triumph of Jackson; signs of a new era.

B. ADAMS AND FEDERAL PATRONAGE.

I. **Evolution of the Spoils System before Jackson.**

1. Intention of the framers of the Constitution: Madison's declaration (*Annals of Congress*, First Congress, first session, 498).
2. Rise of the system in the states.
 - a) Introduced into Pennsylvania by Governor McKean, 1799, 1805: criticised for his course, but not impeached (Hildreth, V, 362, 591).
 - b) In New York.
 - (1) Monopoly of patronage of the great families (Roosevelt, *New York*, 161).
 - (2) Jay's honorable course (Jay, *Jay*, 392).
 - (3) Aaron Burr establishes the machine in New York, 1801 (Roberts, *New York*, II, 481); Burr's maxims as to political management (Lalor, III, 783).

- (4) De Witt Clinton proves himself a worthy pupil of Burr: use of the Council of appointment (for the constitutional provision see Poore, II, 1336).
- (5) Van Buren (disciple of Burr) and the "Albany Regency." After the fall of "King Caucus" he carries the corrupt machine into the wards and primaries (von Holst, II, 21; Lalor, I, 45).
- (6) Senator Marcy's celebrated declaration, 1832: "To the victor belong the spoils of the enemy."
3. Causes leading to the introduction of the system in the federal patronage.
 - a) Rapid increase in the number and value of federal offices.
 - (1) The civil service in 1789 (Lalor, III, 139, 140).
 - (2) The civil service, 1800-1809 (Sybert, 706).
 - (3) Present state of civil service (*Statesman's Year Book*, 1891, p. 1058; *Reports of United States Civil Service Commissioner*; especially *Ninth Report*; *Tenth Report*, 3, and later *Reports*).
 - b) The overthrow of the congressional caucus.
 - (1) Its rise and history, 1804-24; was the practice unconstitutional? (see Constitution, Art. II, sec. i, par. 2).
 - (2) Causes of its fall: the attack of Niles (*Register*, XXIV, 195, 322; Sumner, *Jackson*, 79; von Holst, II, 2).
 - (a) Crawford's caucus nomination.
 - (b) The four candidates in the same party might make caucus nomination equivalent to an election by Congress.
 - (c) Jackson a candidate outside of party.
 - (3) Effects: Van Buren teaches how to "pack the primaries;" the demagogue supersedes the statesman in politics (Landon, *Constitutional History*, 149).
 - c) The "Demos Krateo" principle *vs.* the theory of the constitution growing out of the election in the House, 1825 (von Holst, II, 7; Stanwood, 87, 88; Sumner, *Jackson*, 97).
 - d) Rotation in office as a "republican" principle.

4. Significance of the Four Years' Tenure Act, May 15, 1820 (Niles, XVIII, 234; *Annals of Congress*, Sixteenth Congress, I, 25; II, 2598).
 - a) Alleged motive of Crawford (Lalor, III, 900; J. Q. Adams, *Memoirs*, VII, 424).
 - b) How regarded at the time by statesmen.
 - c) Effects (Sumner, *Jackson*, 83; Schouler, III, 175; Hart, 246; Lalor, III, 900).
5. The thirst for office increased.

II. History of Appointments, 1789-1829 (Salmon, *Appointing Power*).

1. Washington's policy (Marshall, *Washington*, I, 150, 151; Schouler, I, 107 ff.; Salmon, 315; Hildreth, IV, 131, 132; Niles, XX, 249; XLII, 9).
2. John Adams's policy.
 - a) Adopts Washington's principles; ten removals in four years as against nine by Washington (Niles, XLII, 9; Morse, *Adams*, 293-303).
 - b) Censured for appointing relatives.
 - c) The "midnight appointments."
3. Jefferson's policy.
4. Monroe's policy (Gilman, *Monroe*, 191).
 - a) Jackson's advice (Niles, XXVI, 164; Williams, I, 544, 545).
 - b) But nine removals, and these for cause.
 - c) Inadvertently signs the Tenure Act, 1820; but takes no partisan advantage of it.
5. Policy of John Q. Adams (Schouler, III, 343 ff.).
 - a) Admirable in its purpose, but almost too indulgent of political enemies, even those suspected of corruption.
 - b) Only two removals, and these for cause.
 - c) His lesson for Americans.

STUDIES.

1. The civil service and patronage under Washington.
2. Jackson and the spoils system.
3. Origin of the spoils system in New York.
4. Jackson's early views regarding patronage.

5. John Quincy Adams and the slavery struggle in the House of Representatives.
6. Character and political career of Crawford.
7. Present state of the civil service.

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1. *General references*.—J. Q. Adams, *Memoirs* (12 vols., Philadelphia, 1874-77); Schouler, *United States*, III; Hart, *Formation of the Union*, 245-62; Morse, *John Quincy Adams* (Boston, 1882); Johnston, *Politics*; Stanwood, *History of the Presidency* (Boston, 1898); von Holst, *Constitutional History*, II, 1 ff.; Benton, *Thirty Years' View*, I, 46-50.
2. *Spoils system*.—Salmon, "Appointing Power," in *Am. Hist. Ass. Papers*, I, No. 5; Lalor, I, 139 ff.; II, 783-87; III, 895 ff.; Hart, 246; Shepard, *Van Buren*, 32-45; Roberts, *New York*, II, 466-84; Roosevelt, *New York*, 159-65; Hildreth, V, 360, 362, 591, 424; Sybert, *Statistical Annals*, 705, 378; Niles, *Register*, xxiv, xxv, index; Sumner, *Jackson*, 145 ff.; Merriam, in *American Historical Association Papers*, III; Adams, *United States*, index; Morse, *J. Q. Adams; Reports of United States Civil Service Commission*; Eaton, *Civil Service*; especially E. D. Lewis, *The Spoils System before Jackson*.
3. *Jackson and the spoils system*.—Sumner, *Jackson*, 136 ff.; Schouler, III, 451-65; Johnston, *Politics*, 112, 113; Parton, *Jackson*; Curtis, *Webster*; Ormsby, *Whig Party*, 185 ff.; Bradford, *United States*, 369, 370; Williams, II, 961 ff.





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